

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

NISSAN NORTH AMERICA, INC.

and

**Cases 15-CA-171184
15-CA-175295**

**INTERNATIONAL UNION, AUTOMOBILE,
AEROSPACE AND AGRICULTURAL
IMPLEMENT WORKERS OF AMERICA (UAW),
AFL-CIO**

KELLY SERVICES, INC.

and

**Cases 15-CA-171197
15-CA-175297**

**INTERNATIONAL UNION, AUTOMOBILE,
AEROSPACE AND AGRICULTURAL
IMPLEMENT WORKERS OF AMERICA (UAW),
AFL-CIO**

ORDER

Petitioner Kelly Services, Inc.'s Petition to Revoke subpoena duces tecum B-1-SL6FAV is denied. The subpoena seeks information relevant to the matters under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Petitioner has failed to establish any other legal basis for revoking the subpoena.¹ See generally, *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir.

¹ To the extent that the Petitioner has provided some of the requested material, it is not required to produce that information again, provided that the Petitioner accurately describes which documents under subpoena it has already provided, states whether those previously-supplied documents constitute all of the requested documents, and provides all of the information that was subpoenaed.

To the extent that the Petitioner asserts that no responsive documents exist for certain subpoena paragraphs, we note that the subpoena cannot compel the Petitioner to produce evidence that it does not possess, but the Petitioner is required to conduct a reasonable and diligent search for all of the requested evidence. As to requested

1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

Dated, Washington, D.C., October 28, 2016

MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
LAUREN McFERRAN,	MEMBER

evidence that the Petitioner determines it does not possess, the Petitioner must affirmatively represent to the Region that no responsive evidence exists.

Member Miscimarra would grant the petition to revoke as to paragraphs 1 and 2 (requesting employee handbooks and guides) except for those handbook provisions that reasonably relate to the charge allegations regarding unlawfully overbroad policies. See *Allied Waste Services of Massachusetts, LLC*, Cases 01-CA-123082, -126843 (Dec. 31, 2014).